

# L I B E L

**BEFORE THE PRESBYTERY OF KIRKCUDBRIGHT,**

**AT THE INSTANCE OF**

**JAMES KIRKPATRICK and others, Elders and Heads of**  
**said said Families in the Parish of Girthon;**

**AGAINST**

**The Reverend Mr. JOHN M'NAUGHT, Minister of the Gospel in**  
**the Parish of Girthon, and Presbytery of Kirkcudbright.**

**M**R. JOHN M'NAUGHT, Minister of the Gospel in the parish  
of Girthon, and presbytery of Kirkcudbright, you are *indicted*  
and *accused* at the instance of the following persons, all residents  
in the said parish of Girthon, viz.—James Kirkpatrick in Gatehouse,  
James Carnochan in Largies, James Livingston in Derrygoun, all  
elders and heads of families in said parish; John Thomson, junior,  
in Boreland, factor to James Murray, Esq; of Broughton, John  
Thomson in Boreland, George Galloway in Culreoch, and John  
Carnochan in Meikle Barley, all heads of families in the said parish:  
That whereas, by the laws of God, the laws of this realm, and the  
laws and discipline of this church, drunkenness, lying, cursing,  
swearing, blaspheming, using obscene, immodest, impious or wick-

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ed language and expressions ; reflecting upon, and attempting to vilify and injure the Christian religion ; misconstruing the holy scriptures, and thereby burlesquing and ridiculing the same ; endeavouring and attempting to corrupt the faith and principles of the teachers of the gospel ; profaning the Lord's-day ; with-holding and detaining the funds which belong to the poor, to their manifest prejudice and distress ; the acting as a magistrate, and, under pretence of administering law and justice, deliberately to violate both, being guilty of the most flagrant acts of injustice, corruption, extortion, and oppression ; compounding and transacting crimes ; demanding and receiving money under false pretences ; and, as a magistrate, claiming and stipulating for sums of money that ought neither to be charged nor received, and to make the amount thereof conditional ; and to depend upon the success of, or favour to be shewn to the party ; and making a trade and barter of justice ; the performing and promoting clandestine, private, and irregular marriages ; encouraging, countenancing, and sanctioning such ; the advising or inducing unmarried persons to be guilty of falsehood, by acknowledging and admitting themselves to have been privately married, when no such marriage had taken place ; and, as a magistrate, deliberately certifying in writing that the parties had solemnly declared themselves to be married, though they had told him the contrary ; and, under such pretence, to declare them married persons ; and bargaining for, and receiving sums of money, or other gratuities, for thus promoting, celebrating, or sanctioning such marriages, under pretence of legal fees, though none such were due, or ought to have been received ; and the demanding, charging, or receiving money under false pretences, either by a justice of peace, or minister of the gospel, or as a private member of society, are all and each of them crimes of a high and atrocious nature, and severely punishable, especially when aggravated by being committed by a minister of the gospel, whose duty it is, both by his precepts and example, to discourage all sins, vices, and wickedness, and to promote a due observance of and respect for the holy scriptures, the laws of this church, and decency and good order ; or when committed by a justice of the peace, or other civil judge, when exercising his functions and powers in the administration of law and justice, who ought to act from pure motives, with a clear conscience and clean hands, and not to do that himself, which it is his duty to punish in others ; and the said crimes are still more aggravated, when committed by a person exercising the different

different offices of a minister of the gospel, and a justice of the peace; Yet true it is, and of verity, That you, the said Mr. John M'Naught, throwing off the fear of God, and all regard to the laws, civil and ecclesiastical, of this realm, are guilty, actor art and part, of all or one or other of the said crimes and offences, aggravated as aforesaid; *In so far as*, although you were settled as minister in the parish of Girthon, near fourteen years ago, after a very considerable opposition from the parishioners, founded upon the looseness of your former conduct and behaviour, which rendered the utmost regularity and propriety of conduct thereafter necessary on your part, in order to reconcile your parishioners to you, and to render your ministry useful; in place of which, your conduct has been such, that few or none of your parishioners would associate with you as their minister; and when they submitted to the expence of an assistant preacher, and raised a salary for him by private contribution, from whose precepts and example they hoped to derive the advantages they ought to have had from you as their minister, they beheld, with horror and detestation, the conduct and example you set before him and them, by which you evinced a total disregard to the interest of religion, and to all good order and decency; in so far as, in the month of December 1784, or in one or other of the preceding months in that year, or of the succeeding months of the year following, you having met with John M'Culloch, Esq; of Barholm, at or near the public cross in Edinburgh, and the conversation turning upon a treaty or proposition between the now deceased Sir Samuel Hannay of Mochrum, Bart. and you, for the purchase of the lands of Cambret and Claughead, you complained that Sir Samuel was endeavouring to oppress you, and to extort these lands from you, at a price below what they cost: That the said John M'Culloch, who was interested, and wished that an amicable transaction might take place between you and the said Sir Samuel Hannay, for the sale of these lands, having gone to the house of Mrs. M'Culloch of Barholm, his mother, she informed the said John M'Culloch, that Lady Hannay, spouse to the said Sir Samuel Hannay, had that day made her a visit, during which the treaty between the said Sir Samuel Hannay and you was also mentioned, and that Lady Hannay had informed Mrs. M'Culloch that Sir Samuel was willing, by way of profit to you, upon your bargain, to allow you a considerable sum, and to pay the price which the lands cost you, and the whole interest that had become due thereupon, no part thereof having been paid by you, and that she and

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Sir Samuel wished very much that a friendly agreement could be made for the said lands: That the said John M'Culloch finding this account so different from the account he had received from you, and apprehending that you might be in some mistake, he returned in search of you, and having upon the same day again met you near the said cross, he informed you of the information he had so received; and you having enquired at him from whom the information came, he told you it came from Lady Hannay; upon which you, disregarding your own character as a minister of the gospel, most wickedly and obscenely expressed yourself in the following words, or in the words of the following import: God damn Lady Hannay—  
“ Go to her with my compliments, and tell her she shall never have the breadth of her Cunt of these lands to piss upon.”

That upon the 8th day of December 1786, or one or other of the days or nights of the winter months in that year, or of the winter months of the year preceding, or of the year following, at one of the Gatehouse markets, within the house of James M'Kune innkeeper there, you got drunk and intoxicated with liquor; and being in company with William Hannay, Esq; of Bargally, Alex. M'Clean of Mark, Matthew Briarcliff in Bagbie, William Hastie then in Torrs, now in Braiche, and others, you most wickedly cursed and swore, and used many blasphemous oaths, and not only uttered much obscene language, but sung different verses of obscene songs, to the great scandal of religion, and offence to all present; when the said William Hastie, by way of reproving your wicked and indecent behaviour, told you, that in place of being in company with a clergyman, he believed he was got into the company of a tinker; to which you answered, That you were a clergyman, and a tinker too; and that if he had any horns, and would send them to you by his daughter, you would make them into spoons, and mow or fuck his daughter into the bargain. That upon the 16th day of December 1790, or upon one or other of the days or nights of that month, or of November or October preceding, or January following, you having married, or at least been present at the wedding of James Bell in Gatehouse, and Janet M'Night in High Creoch, at Gatehouse, at which time the Reverend Mr. William Paterfon your helper, who died the next day, was so ill, that his death was hourly expected; and you having also been informed that day of the death of the said Sir Samuel Hannay, you again abandoned yourself to drunkenness, and was drunk and intoxicated with liquor; and, in presence of a number of

of persons, you most indecently expressed much joy and exultation at the death of the said Sir Samuel Hannay, and at the hopes of the death of the said Mr. William Paterson ; and, to the disgrace of your own character, and to the great offence of all present, you swore many horrible and blasphemous oaths—praying that God would damn the souls of all the Hannays ; and introducing in your conversation the names of James Murray, Esq; of Broughton, John Bushby, Esq; sheriff-clerk of Dumfries, one of his commissioners, the complainer John Thomson, his factor, and John M'Culloch, Esq; of Barholm ; you not only indecently expressed your contempt and disregard for them, and each of them, but you repeatedly beseeched, and prayed that God would damn all their souls to hell ; and you most impiously and wickedly averred and said, that the great Sir Samuel Hannay was now dead and damned, and that the whole of them were all damned buggars, and would be in hell together, or used words to that import and meaning ; and William Bryce in Gatehouse, one of the company present, having represented unto you the wickedness of your conduct, and of your blaspheming and swearing in manner mentioned, you damned him, and bade him swear also ; and upon his telling you that he was not sufficiently learned to follow your instructions, you swore by the Almighty God, or by some other great oath, that you would learn him ; and upon its being hinted to you, that you would certainly be libelled and prosecuted before the church courts, for your disgraceful and wicked behaviour, you damned the kirk of Scotland, and declared you disregarded any consequence of that kind. That upon the settlement of the Reverend Mr. William Thorburn, as your helper, in the parish of Girthon, upon or about the      day of June last, an entertainment was given in the house of James M'Kune, innkeeper at Gatehouse, where you were present, and where you again got drunk and became intoxicated with liquor, and in place of promoting that grave and pious conversation, which was suitable for such an occasion, you in your conversation intermingled a number of blasphemous and wicked oaths, and you likewise sung different very indecent and obscene songs, to the great offence of a number of persons present, so much so, that Lieutenant Hugh Stewart of the marines, one of the company, observed, that it was said that the people on board men of war were very wicked, yet he had been on board of many men of war, and he never met with an instance of

obscenity and wickedness equal to what the parson of Girthon had exhibited upon that occasion. That as a minister of the gospel you ought to confine yourself to the duties of your function, and, by your precepts and practice, teach and enforce the great truths of religion ; and by an act of parliament, made soon after the Reformation, (1584 —c. 133.) ministers of the gospel are prohibited from being civil judges, and from exercising other offices therein mentioned, to enable them the better to discharge and attend to their duty, that they may thereby be the more useful to their flock, and to the interests of religion ; yet you have neglected your duty as a minister of the gospel, and have taken upon you to act as a justice of the peace, in which character your conduct has been disgraceful to yourself, practising the most nefarious acts of extortion, corruption, and oppression, and laying aside all regard to decency, justice, and the law ; and in which your administration of justice has been so scandalous and oppressive, that it has been complained of in all parts of the country, the rich and the poor joining in their censure of your unprincipled conduct ; and you frequently acted in a double capacity of agent and judge, and in making a barter of justice, for which, to use your own expression, you appear to have converted the manse of Girthon into a " shop." —That Anthony M'Harg in Glencappenoch, a very poor man, who had been brought before you as a justice of peace, in consequence of a warrant granted by yourself, upon or about the 11th day of March 1786, and against whom you pronounced, and caused execute, in a most illegal manner, a most unjust and iniquitous sentence, committing the poor man prisoner to the custody of the constable, with orders to detain him, not only till he paid a debt of fifteen shillings due to the creditor who applied for the warrant, but until he paid two shillings for your trouble, as a judge in pronouncing this sentence ; and the said two shillings were extorted from the poor man, and received by you accordingly : That this poor man, Anthony M'Harg, having presented a petition to his Majesty's justices of the peace for the stewartry of Kirkcudbright, at their quarter-sessions, in May 1786, for the purpose of recovering back the two shillings, which had been so illegally extorted and forced from him, and charging you with a general practice of extorting and receiving money when acting as a justice of the peace, from the parties who came before you, under the pretence and colour of perquisites and fees, though none such were due you, nor had you any right or title

title to charge or receive one farthing in that way; and also, charging you with various other malversations in the execution of your office as a justice of the peace: and the said complaint having been publicly read over in presence of the Court, and a number of other persons then assembled within the court-house of Kirkcudbright, and in your presence, you publicly declared that not one of the facts stated in that complaint were true, and you solemnly denied that ever you had been guilty of charging or receiving any money, or fees, on your own account, when acting as a justice of the peace from any person whatever; and that, upon investigation, it would be found your whole conduct as a justice of the peace had been proper, and highly for the benefit of the public; and as a matter of justice to you, and to remove the stain which such a charge brought upon the character of a minister of the gospel, and upon any judge or honest man, you requested the court to investigate the charge of mal-practices so made against you, and to allow a proof thereof; and which the court, from tenderness to your character, as a minister of the gospel, and from a desire to afford you an opportunity of refuting the crimes imputed to you, agreed to comply with, and adjourned the quarter-session, to meet again at the Gatehouse of Fleet, the 4th day of May 1786, to examine such witnesses as might be then adduced by you, or the complainer; and diligence was granted at the instance of both parties against witnesses accordingly, to be reported at the said place and time. That the following justices of the peace having accordingly met, at the said adjourned quarter-sessions, at Gatehouse of Fleet, the 4th day of May 1786, to wit, Walter Sloan Laurie, Esq; of Redcastle, David Maxwell, Esq; of Cardoness, John Bushby, Esq; of Kempleton, William Stewart, Esq; of Trostan, the said Reverend Mr. John M'Naught of Claughead, and John M'Culloch Esq; of Barholm; and the said Walter Sloan Laurie being elected preses, and the said petition and complaint of the said Anthony M'Harg being again moved in your presence, before the said adjourned quarter-session, you, conscious of the falsehood of your averment, judicially and deliberately made before the quarter-sessions, in which you not only denied your having taken the two shillings mentioned by M'Harg, or that you, when acting as a justice of the peace, ever demanded or received one shilling from any person whatever, desired, before proceeding to the investigation, that you might be allowed to explain yourself fully, which the court having agreed.

agreed to, your representation was entered in their minutes, in the following words, or in words to the following purport ; " Mr. M'Naught desired that it might be entered into the minutes, that in the case of M'Harg, there had been a considerable deal of trouble, and that he had employed David M'Guffog to write the proceedings, which were long, as would appear from the minutes themselves ; he had taken one shilling, and one shilling only, and which he intended for the clerk's trouble, and that this shilling was paid in public, and denies that he ever took any fees for himself, or ever made any bargain or private transaction for his own emolument, and he will be well satisfied to see any proof attempted to the contrary ; and he rests satisfied that any proof that can be brought must shew that his conduct has been proper, and highly beneficial to the public." By which representation you were again guilty of asserting, judicially and deliberately, a falsehood, endeavouring to impose a belief upon the court and the world, that, when in the execution of the office of a justice of the peace, you had acted with clean hands, so far as regarded your own personal interest, never bargaining for, demanding, taking, or receiving one farthing for yourself on any account, or under any pretence whatever, though the contrary almost in every instance was the case. That notwithstanding of your thus publicly and judiciously averring your own innocence, yet you were conscious of your own guilt, and that you had been asserting a deliberate lie ; for upon the said David M'Guffog being called and examined as a witness, and he having deponed, that he had been frequently employed as a constable to execute warrants and summonses, issued by you as a justice of the peace, and that he had several times been employed to write minutes and procedure, when you were acting in your judicial capacity in causes before you ; and that he had known you, when acting as a justice of the peace, receive money from the parties, and being about to proceed to a particular detail of your nefarious and illegal acts of extortion and corruption, after deponing to one of them, at which he was present, and the particulars of which consisted with his own knowledge, viz. the case of Matthew Briarcliff in Bagbie, though, as a justice of the peace, you had no jurisdiction in such a case ; yet the said Matthew Briarcliff, in winter 1785, having sold a bullock to David Hill, butcher in Gatehouse, for the price of which John Hunter, and James Nielson, both in Gatehouse, became cautioners, and which price not being paid, you, in the end of the year

year 1785, or in the beginning of the year 1786, advised the said Matthew Briarcliff to present a petition to you, upon which you would grant a warrant to apprehend the said three persons, and to bring them before you for examination, as if, in place of owing a civil debt, they had committed a crime; and upon a petition being prepared as advised by you, you granted a warrant to apprehend the said three persons, and for which you charged and received five shillings as your dues, for the trouble that you had had in this business as a justice of the peace. That conscious of the enormity of your own conduct, and the black catalogue of extortion, corruption, instances of bartering justice, and malversations in office, when acting as a justice of the peace, that would be established against you, by the examination of this, and the other witnesses ready to be adduced; and though but a few minutes before you had deliberately and judicially asserted your own innocence, and bade defiance to your accuser, yet you now saw your turpitude could no longer be concealed, and you took guilt to yourself, and desired that the examination of the witness might not be further proceeded in, and that to save trouble to the court, you would, in a judicial declaration, state the particular cases that had come before you as a justice of the peace, where you had received money; and the court having complied with your request, you emitted a declaration accordingly, which contains a catalogue, tho' but a partial one, of many enormities, gross mal-practices, and malversations, that you had committed as a justice of the peace; and though the malversations and crimes you acknowledged were disgraceful to you, in the highest degree, as a magistrate, and not less so as a minister of the gospel—in place of that confusion and shame, that ought to have overwhelmed any one in your situation, you, throwing off all regard to decency, and without the least mark of contrition, aggravated the offences and crimes that you had committed, by assigning the most absurd and ridiculous causes in justification of your receiving the fees, and sums of money you had bargained for;—for in your declaration emitted before the said court, and signed by you and the preses, you acknowledged that you recollect, that when acting as a justice of the peace, you received the following sums for granting warrants, and giving judgments, to wit—From John Gourlay in Gourlays Laggan, one or two shillings; from John M'Michen in Carstramond, one shilling; from Samuel M'Keand in Drumstrangan, in a case of his daughter about a bastard child, three shillings; but in this case you ludicrously al-

alleged there was a good deal of trouble, for you had a circumstantial proof to lead, to fix that the child was begot in a byre; from John Carlson in Culercie, in a business in which you stated the parties were four or five times before you, two shillings; from Samuel Boddan in Tannifad, three shillings; from John Pain in Gatehouse, one shilling; mentioning it as a meritorious act that you had not taken more, (though by law you had not a right to take one farthing); that this case was troublesome, but the man was very poor; from David Hill butcher in Gatehouse, two shillings; and still falsely holding out your own merit, by alledging, as a justification for your corruptly receiving fees not due, that this case was still more troublesome, and your trouble deserved nearer twenty shillings; from James Douglas baker in Gatehouse, one shilling; in a question, which, without mentioning what the question was, you say, as a justification of your receiving that shilling, that it was a horrible question; from Charles Selkirk, for one cause, in which you alledged he had called about fifty defenders, either three or five shillings. That this cause you stated, had depended before the Stewart-court, you believed, near two years; but, by your advice, it was withdrawn from the Stewart-court, and brought before yourself, and discussed in ten days; and Mr. Selkirk either did, or might have received a deal of money, for you gave a warrant or decree, at least you granted warrant, for bringing them before you, when several of them transacted by your orders and advice: and it would appear from your own declaration, that in order to render your advice the more salutary and effectual, when these defenders were apprehended by your illegal warrants, that, agreeable to a practice introduced and adopted by yourself, in defiance of the known law of the land, that you committed these persons not to a jail, where alone they could be committed, if they ought to have been made prisoners, but into the hands of the constable, to be by him detained, till they paid or granted security for the sums with which they were charged, or which you ordered to be paid. That in a process of John Henry, then in Gatehouse, now in Newtonstewart, which you alledged had also long depended before the Stewart-court, but where nothing was done, and which therefore, by your advice, was brought before yourself, you took five shillings: From John M'Adam in Whinniehill, in a question in which you had granted warrant, and alledged you had much trouble, one shilling; and in your said declaration you acknowledged, that in all the above cases David M'Guffog acted as constable, and sometimes

sometimes as clerk, but that, and not unfrequently, you at other times acted as clerk yourself, and that to the best of your recollection these questions had occurred within twelve months, and most of them in the winter preceding. That Mr. Parker, late in Gatehouse, now deceased, had paid you five shillings for your trouble, in an investigation where several persons had been guilty of petty thefts; and that after you had brought them all to a confession of the thefts they had committed, and that many valuable articles had been restored, in place of bringing such offenders to public justice, by which such crimes might have been punished, to deter others from committing the like, you admit that by your advice the crimes were transacted, and amicably settled, and that this had happened two or three months before your emitting your said judicial declaration; and you declared, that in all the above cases you had acted as a single justice of the peace in the whole procedure, alledging, that the people had informed you that they would rather pay you for doing their business, than have it done by other justices for nothing; and when the said declaration was publicly read over to you, you desired that it might be added, that the money was received by you publicly and avowedly; and by the said declaration you also acknowledged, that you keep a record for the public marriages in your parish, for which, as an instance of your moderation and justice, you stated you only charged five shillings for the most, and sometimes so low as three shillings, and half-a-crown, and out of that you paid a part to the presenter, more or less, according to the sum. That it will occur, that the whole acts of extortion, corruption, and mal-practices, then admitted by you, (and a shocking picture of your conduct they afford,) were thus admitted by you, to prevent the examination of the said David McGuffog being proceeded in, were in cases where McGuffog himself had been employed, and to which he was privy, and confined to a very short space, to wit, twelve months from that date, and though you had been guilty of twice falsely and deliberately denying before the court, the several facts you had now admitted under your own hand; thereby convicting yourself of being a liar, and a hardened sinner; and your offences were aggravated, by your telling these lies deliberately in a court of justice, for the purpose of concealing the crimes and offences you had committed; yet you were conscious, that, upon an investigation, many other acts of malversation, besides those admitted by you, would be proved against you; and therefore you stated, in the said declaration, that you could not charge your memory with all the business that had

been

been before you as a justice of peace ; but if any person would suggest any other sum that had been received by you, you would be ready, so far as true, to admit the same ; and you also stated to the court, that you presumed it would be unnecessary to be more particular ; and which declaration and requisition was judicially subscribed by you in open court. That whether it occurred to yourself, that the turpitude of your conduct was fully evinced by the various acts of extortion, corruption, and malversation, that you yourself had admitted and acknowledged, and that these were sufficient to prove your being a bad member of society, an improper minister of the Gospel, and a disgraceful and corrupt judge, so that all further investigation was unnecessary ; or that you were sensible that further investigation would only tend to make your conduct and character still blacker and blacker, when you stated to the court, that you presumed it unnecessary to be more particular in the investigation that was about to take place, is immaterial : But it being suggested to the court, that you had, in some of the offences you admitted, concealed some aggravated circumstances, and, without any foundation, had insinuated that a part of the fees taken by you, when acting as a justice of the peace, was for clerk's dues, and for the benefit of the poor ; the court, for their own satisfaction, and that your conduct and practice might be known, proceeded to the examination of some witnesses, respecting a part of the crimes imputed to you ; and it appeared from the examination of witnesses, that no part of the sums received by you were paid to David M'Guffog, who had so acted as clerk to you, nor to John Thomson, writer in Kirkcudbright, clerk to the justices of the peace for the stewartry of Kirkcudbright ; and that of the sums you had extorted and received for irregular marriages, proclamation of banns, or for keeping the register of public marriages, no part had ever been paid, or accounted for, to the poor or session of Girthon ; and which you admitted to the deceased Mr. William Paterson, preacher of the gospel, then your helper and assistant, upon the very day upon which you emitted your declaration, and before emitting the same ; so that in aggravation of your wicked and abominable conduct, you added falsehood to your other crimes ; for it appeared, and you are now charged with retaining and applying to your own use, the whole sums of money, which, as a justice of peace, you do unlawfully and corruptly receive, from persons or parties that applied to you in that capacity : And it also appeared, and it is now charged against you, that bad and disgraceful as your conduct has been, in persuading and advising the said John Henry to bring an action depending

pending before the Stewart-court (who had competent jurisdiction to decide in civil actions for debt) from that court, and to bring it before you as a justice of the peace, who, as such, had no jurisdiction to try actions for civil debt, and which was brought before you accordingly, and not only discussed as above mentioned with so much rapidity, but execution awarded by you in a manner so totally contrary to law, and that form of procedure necessary, and observed in all courts of justice; yet you had concealed a very aggravating and corrupt fact, which was established before the said court, and will be proved against you, namely, that he the said John Henry withdrew the action from the Stewart-court, and brought it before you, in consequence of a private bargain between him the party in the suit, and you the judge who was to determine the same, that he should pay you ten shillings, the one-half of which was to be paid you in hand, but the other five shillings was to depend upon his success in obtaining your decree, and recovering the debts, in virtue of the warrants that you were to grant, whereby you made an unlawful and corrupt transaction, and a barter and sale of justice, making your own emolument to depend upon the pursuer's success: and it also appeared, that in the question mentioned in your declaration, respecting the bastard child brought forth by the said Samuel M'Keand's daughter, where, as a justice of peace, you admitted you received three shillings, alledging, as a reason for taking this sum, that you had been put to great trouble in having it proved that the child was begot in the byre, that you had concealed the true facts, and a considerable part of your disgraceful conduct: for it is a fact, that stands admitted under your own hand, in the procedure before the said adjourned quarter-session, that you had first been consulted as an agent, and had given your advice to bring the action before yourself, and then acting as a judge; and you are hereby accused of having, when applied to as a justice of the peace, charged and received money for your advice as an agent, and for your trouble or fees as a justice of peace, in the procedure before you, in the very action in which you had been so consulted, and had advised to be brought before yourself; and you, when so applied to as a justice of the peace, by the said Samuel M'Keand, respecting the bastard brought forth by his daughter, charged half-a-crown as your dues; and upon a remonstrance to you by the said Samuel M'Keand against this charge, you told him, that was your price, and if he did not chuse to pay that sum, he might go to another *shop*; but he knowing of no

other shop where law and justice were to be bought and sold, complied with your terms, paid you first half-a-crown, and then a shilling, and in return had the advantage to have his cause decided with success, and the very place where the child was begot, namely the byre, ascertained and fixed; and the way and manner of your so demanding this half-crown, and of your receiving it, and of that being your price, as above stated, was also judicially acknowledged by you at the said adjourned quarter-sessions; and you likewise acknowledged judicially, at the same time, that you, as a justice of peace, had been in the practice of taking money when you gave advice in that character. That being ashamed of your corrupt, wicked, and nefarious practices, so admitted by you, and established before the said court of justices, you, in extenuation of your guilt, desired it might be inserted in the minutes of the court, that when you took money for advice as a justice, you did not want the cause to come to be determined by yourself, but wished to have such causes to come before a court of justices, and that it was only in causes where you yourself had the whole trouble that you took money, and you still considered that you was accountable to the clerk of court for any part he had right to; and a minute in the above words, or in words of the above import and meaning, was, at your desire, made a part of the procedure at the said adjourned quarter-session, and was judicially signed by you; but what you so alledged in extenuation of your guilt, is in truth an aggravation of the malversations you have committed, as you thereby testify your own sense of your own unlawful practices; for notwithstanding that you pretended, when you received money as a justice of peace for your advice in any cause, that you wished such actions not to come to be determined by you, but to go before a court of justices; yet your practice was the reverse, and you did advise actions where you were applied to as a justice, and received money for your advice and assistance, to be brought before yourself, and then determined such actions as a single justice of the peace accordingly, as will be proved against you, and stands confessed and admitted under your own hand; and you thereby likewise testify your own sense, that in demanding and taking money for any judicial procedure, you are guilty of corruption and extortion; as your alledgeance that you consider yourself accountable to the clerk of court, in the *first* place, if true, would not justify your conduct, as it is but for a part of what you got, that you pretend that you are accountable for; and, in the *next* place, you are deprived even of

of that pretence by the fact to which the clerk of court swore, and which will be proven against you, namely, that you never either paid or communicated to any clerk your having received any money on that account ; that you were conscious of your unlawful and corrupt conduct, and receiving the said two shillings from the said Anthony M'Harg ; and, accordingly, you returned the same to him in open court, in presence of the justices, thereby admitting your own guilt ; and the said Anthony M'Harg having acquiesced in your observation, that it was unnecessary to enter into further particulars of your malversations, than what were then admitted by you, and proved before the justices, he declined examining any of the other witnesses that he had cited, to prove your corrupt and illegal practices ; and you having been heard in your defence, and having declared that you had nothing further to offer, and that you left the cause to the judgement of the court, they pronounced the following sentence and judgement against you, viz. " The court having considered this petition, with the minute before, and interlocutor of the quarter-session of the 2d of May current, the evidence of the witnesses this day examined, the declaration and admission of Mr. M'Naught the respondent, and whole minutes and proceedings, with the processes exhibited by M'Guffog the constable, and the appeal against a sentence of his, Mr. M'Naught's, in the complaint by Samuel and Mary Boddans against John and James Muirs, which comes to be discussed this day, they find, That Mr. M'Naught has shamefully prostituted his character and powers as a justice of the peace ; that he has been in the practice of receiving money, in some cases, for his advice, in questions that he was to decide as a judge ; in other cases, for receiving money for permitting crimes to be transacted in his presence, and with his approbation, which public justice demanded punishment for, and at other times under pretence of fees due to him as a justice of peace for trouble ; and that in one case he bargained for conditional fees, depending upon the success of the cause in which he was to judge ; and having also observed, that, in cases for civil debts, he determined many of them by his own authority, and not only granted warrant to apprehend the defenders and bring them before him, but in his sentence has granted warrants to commit them, not to prison, but into the custody of a constable, there to be detained till they paid or found security for the sums he decreed. And the court having reasoned amongst themselves, they unanimously resolved

" probated Mr. M'Naught's conduct, as disgraceful to himself, oppressive to the lieges, and unlawful and improper in the highest degree; but having doubts as to their own power, either to punish his past offences, or to lay him under any restraint, to prevent a repetition of his illegal and improper conduct, the court agree to lay the whole procedure before his Majesty's Advocate, and to request his Lordship's advice what this court ought to do in the premises, and that his Lordship will interpose, so far as he may deem necessary in justice to the public; and it will be necessary that his Lordship keep in view, that the members of this court present will not feel themselves at liberty to act in any court in discharge of their duty, where they must associate with a person whose conduct they have so strongly reprobated; and as Mr. Bushby is to be soon in Edinburgh, the court request him to wait upon the Lord Advocate, and to converse his Lordship, and to request to know his opinion and resolutions in the premises; and to report the same to the quarter-session, adjourned to the              day of June next, and appoint the clerk, *quam primum*, to transmit to Mr. Bushby an extract of this petition, and whole procedure therein, to be by him laid before the Lord Advocate." And which sentence and resolution of the justices was pronounced, and publicly over-read to you, in presence of the said justices, and the other persons then attending the court; and the said petition, presented by the said Anthony M'Harg to the said quarter-sessions, met at Kirkcudbright upon the 1st Tuesday of May 1786, and procedure had therein, with the procedure of the adjourned quarter-sessions, held at Gatehouse of Fleet the said 4th day of May 1786, and your judicial declarations and admissions, with the depositions of the witnesses, minutes, and sentence and resolution above recited, or authentic copies or extracts thereof, will be produced, and made a part of the evidence against you, and is now lying, or in due time will be put into the hands of the presbytery clerk, where you may see the same. That at the said adjourned quarter sessions, after the sentence above recited had been pronounced by the court against you, another cause, at the instance of William M'Keand, John M'Dowall, and Hugh M'Moreland, all in Gatehouse, against Nathan Richmond in Gatehouse, was moved before the said justices, in which you had granted warrant to summon the said defender, upon the 27th of March 1786, to appear before you, and in which you had acted in violation of all law and form, and had, most indecently and corruptly, bargained for fees to be paid to

to you, as a justice of peace, for the said warrant, before you granted the same, the said adjourned quarter session dismissed the complaint as incompetent, in the shape it came before you ; and you having admitted the truth of the representation made by the said three persons, as to their applying to you as a justice of the peace, your refusing to grant a warrant, till they should agree to pay you the sum you demanded for your trouble, and which it appears you rated according to their powers ; after enquiring at themselves what money they possessed, you extorted and corruptly received from them, three shillings on that account, but so conscious were you, that you had acted most unwarrantably in extorting the said three shillings, from the said three poor people in the way you had done, that you of your own accord, in presence of the said justices, returned the said three shillings to the said complainers : and this disgraceful transaction, which will be proved against you, stands recorded in the minutes of the said adjourned quarter session, upon the said 4th day of May 1786, in the following words, "The petitioners represented, that when they applied to Mr. M'Naught, as a justice of the peace, for the warrant he granted, he told them he must feel their purses before he gave them any warrant, on which the petitioners, William M'Keand and John M'Dowall, each gave Mr. M'Naught one shilling, and Hugh M'Moreland promised he would pay a shilling afterwards, he having no money, and on payment of said two shillings, and promise of the other shilling as aforesaid, he granted the deliverance above written, and the said Hugh M'Moreland afterwards paid Mr. M'Naught the shilling, and they submitted to the court, if Mr. M'Naught ought not to return the three shillings he had received for a warrant of no effect, and Mr. M'Naught himself directly laid down the three shillings, which he had so received, and which was delivered to the petitioners in presence of the court." And which complaint, presented against the said Nathan Richmond, with the procedure thereon, and minute of court above recited, will be used in evidence against you, and in due time will be lodged in the hands of the clerk of the presbytery, where you may see the same. That the aforesaid procedure, before the justices of peace, against you, with your judicial acknowledgments, and the papers above narrated produced to the justices, with their judgments, having been laid before his Majesty's then advocate for Scotland, the present Lord president of the Court of Session, agreeable to the recommendation of the justices to Mr. Bushby, and his Lordship having considered

the whole, he returned the same with his opinion, in the following words—" I have read and considered the proceedings of the " justices of peace for the stewartry of Kirkcudbright, with regard " to Mr. John M'Naught's acting as a justice of the peace, and " taking money from the parties concerned in such occasions ; and " I agree entirely with the justices in thinking, that his conduct " has been in various respects highly improper and illegal.—A mi- " nister of the gospel ought to confine himself to the duties of his " function ; and for that reason, by an act of Parliament soon af- " ter the reformation, (1584 c. 133) ministers were prohibited from " being civil judges, or exercising other offices therein mentioned ; " and they ought not to be included in any commission of the " peace, nor do I believe it is usual to include them, even where " they happen to be heritors of land within the county.

" But at any rate, Mr. M'Naught's offence goes much deeper " than merely acting as a justice of peace, for it is clear, from the " proof adduced, that he has taken it upon him, in many instances, " to extort money under the pretence of fees and perquisites, and " for giving advice to parties, or rather pronouncing judgments " in their favour, and in short of making a trade of bartering jus- " tice, which was a conduct highly disgraceful, as well as dange- " rous and unbecoming the character which he ought to have " maintained both as a clergymen and as a public magistrate. " The justices of peace have done very right in taking notice of " such violations of decency and good order in their county. The " censure which they have passed upon him is scarcely adequate to " what he deserves ; and were it not that, in all probability, he has " acted from ignorance more than bad design, I should think there " might be room for a criminal prosecution against him before the " circuit court, at the instance of his Majesty's advocate, as guilty " of prostitution of his office, oppression, and bribery. If Mr. " M'Naught does not immediately desist from such practices, the " law will certainly overtake him. He ought, at any rate, to " give back the money which he has unlawfully taken, and per- " haps the justices of the peace may conclude the procedure " against him, by recommending to the procurator fiscal of the " sheriff-court, to bring an action against him for repetition of all " these sums, in order to be paid back to the parties from whom " they were received, or applied to the use of the poor, if not " otherwise claimed within a certain time. This, with the cen- " sure which has already been passed upon him by the justices of "

" the

" the peace, will, in all probability, bring him to a sense of his " duty, and put him on his guard not to transgress in the same " manner in time to come." And though after your illegal corrupt, and unwarrantable conduct, had been thus reprobated and condemned as well by the court of justices as by the supreme Law officer of this kingdom, and that your procedure and practices were so disgraceful, that the justices of peace did not think themselves at liberty to associate with you, or to fit in a court of justice where you should be as a member; it might have been expected that you would have shewn a proper contrition for your past mal-practices, and confined yourself to the duties of your office as a minister of the Gospel, conducting yourself with that circumspection, good order, and decency, which it is the duty of every minister to observe, and which, as the best atonement for your past offences, became particularly necessary for one in your situation to observe; at least, if you did presume further to continue to act as a justice of peace, that you would have avoided all acts of extortion and corruption, and those other malversations which had attended your former practice; in place of which your conduct has been highly aggravated; after your duty had been so explained, and your illegal practices so reprobated, in as much as, you have continued to make a barter and sale of law and justice, and to this day continue to make a barter and sale thereof, and corruptly to receive, extort, and take money, as pretended fees for administering justice, and for trouble in executing your office as a justice of peace, which was not due to you, and which you ought not to have received; and it is charged, and will be proven against you, that it has been your general practice, even since your conduct was reprobated by the adjourned quarter sessions, upon the 6th of May 1786, in manner above-mentioned, and after his Majesty's Advocate had delivered his opinion that your conduct was illegal and oppressive, and contrary to law and justice, and that you had prostituted the office of a justice of peace, and unwarrantably executed the same; yet in every instance that has come before you where you acted as a justice of peace since that period; you have continued to prostitute the office of a justice of the peace, and have been guilty of a repetition of the various acts of oppression, extortion, and malversation that had been so reprobated, condemned, and censured, as will be proven against you; and particularly, you are accused of the continuation of these offences, in as much as, upon or about the 5th day of December 1789, Peter M'Geoch in Cauldsie, having

Having presented a petition to you for a warrant against David M'Guffog, on account of a claim about a bargain for cattle, you upon that date granted a warrant, for which you charged and received one shilling for your trouble, as a justice of peace; and on the 16th of March thereafter, John Kirk in Laigh Creoch, having presented a petition to you against John Bell in Waulkmiln of Anwoth, in order to recover eighteen shillings as a debt due by him, you charged and received another shilling for granting warrant thereon; and you likewise charged and received from one shilling to five shillings, for your trouble as a justice of the peace, in the following petitions presented to you, on or about the times after-specified by the persons after-mentioned, viz. In a petition at the instance of John Thomson of Glenbridge, in order to recover from Alexander Clymont one pound fifteen shillings, alledged to be due for salt, and in which you most oppressively granted warrant to bring him before you, though he lived at the distance of sixteen miles from the manse of Girthon, and that there were several justices of the peace who lived in his near neighbourhood, before whom your warrant ought to have directed him, to have been carried, if it had been lawful for you as a justice of peace at all to apprehend him; and in another petition, at the instance of John Brown in Kirklaugh, against John Neilson, mason in Kirkdale, for a debt of one pound sixteen shillings and ten-pence, alledged to be due him, upon which you granted warrant on the 4th of March, 1790—*Item*, in a petition at the instance of William Wallace, against William Sloan, for one pound ten shillings and ten-pence, alledged to be due to him the said Wallace, on which, upon the 6th day of April 1790, you granted warrant to apprehend Sloan, and to bring him before you—*Item*, In a counter-petition presented by the said William Sloan, against the said William Wallace, respecting a bill, and for other damages, the amount of which is not so much as suggested, upon which, on the 8th day of April 1790, you not only granted a warrant to apprehend the said William Wallace, but also any witnesses that he might think proper, and to bring the whole, both party and witnesses, prisoners before you—*Item*, one at the instance of Captain Pearson, against Mrs. Thomson, spouse to Joseph Thomson, merchant in Peeltoun, in order to recover from her an indefinite sum, alledged to be due by her husband for freight, with five pounds charged for the vessel's being detained in port, and praying that she, though a married woman, should be apprehended and imprisoned

prisoned till she should find caution, in any action to be brought against her, or her husband, on account of the premises ; and though the prayer of this petition was in every respect irrelevant, yet you most illegally, upon the 7th day of August 1790, granted warrant to apprehend the said Mrs. Thomson, and to bring her before you—*Item*, in a petition presented by George Kirk, late in Anchengashel, against James M'Cartney in Kempleton, upon which you granted a warrant upon the 28th day of May 1791—*Item*, in the petition of George M'Taggart in Gatehouse, against Alexander Heron, upon which, on the 30th day of May 1791, you again most illegally granted warrant, both to apprehend the said Alexander Heron and the witnesses, which the complainer might see necessary—*Item*, in a petition at the instance of Alexander Rorison, flesher in Gatehouse, against seven persons therein mentioned, charging them with being due the most trifling sums, the whole of which amounting only to fifty shillings or thereby, you granted warrant upon the 16th of July 1791, to apprehend the whole of the said defenders—*Item*, upon a petition presented by Sarah Carson at Miln of Skyreburn, against James Twinholm in Mossyeard of Cardonefs, on which, on the 23d day of August 1791, you granted warrant in terms of the prayer of the petition—*Item*, upon a petition presented by Martin M'Adam in Disdow, against Alexander Rorison in Gatehouse, on which, upon the 23d day of August 1791, you granted warrant in like manner ; also in a petition presented by James M'Candlish in Tannimaus, on which you also granted a warrant on the 14th day of January 1792—*Item*, in the petition presented by John M'Kenzie, from the kingdom of Ireland, against Henry Cairns, shoemaker in Gatehouse, upon which you granted a warrant to apprehend the defender on the 7th day of February 1792 ; also, in the petition at the instance of Agnes Livingston against James Maxwell, therein designed tailor from the Isle of Man, charging him with being the father of a bastard child, begot in June 1790, and claiming twenty shillings for in-lying expences, and three pounds for aliment from the birth of the child to the date of the application, and twenty shillings for the expences of the application ; upon which, on the 13th day of March last, you granted a warrant to apprehend the said James Maxwell, and to break open lock-fast and shut places ; and he being brought before you upon the 14th of March last, you pronounced a most oppressive, illegal warrant, and in terms so absurd, as to be disgraceful to you.

both as a magistrate, and as a minister of the gospel, and of which warrant the tenor follows : " Girthon, 14th March 1792. Com-  
 " peared the pursuer and defender, and having heard parties at  
 " great length, decerns and ordains the defender to pay to the pur-  
 " suer eleven shillings and three pence Sterling, as the balance of  
 " the in-lying expences, and three pounds Sterling for ten years  
 " since the birth of the child, and commits him into the hands of  
 " constables for forty-eight hours to find caution ; and failing to  
 " find caution in that space of time, transmits the defender to the  
 " jail of Kirkcudbright, there to remain on his proper charges till  
 " he finds caution, with ten shillings of expences ; and grants war-  
 " rant and mittimus to the magistrates, and the keepers of their  
 " prisons, to receive and detain the defender, with expences of de-  
 " tainment and commitment, in case it is incurred. (Signed *John*  
*M'Naught, J. P.*) And you are further accused in the following  
 instances, not only of receiving and extorting fees when acting as  
 a justice of peace, and oppressing the lieges, by bringing them be-  
 fore you (in most of which cases the justices of peace have no ju-  
 risdiction;) and your conduct is aggravated by your concussing the  
 parties by threats, and undue means, to submit their cases to you  
 as an arbiter, and then extorting money from them, as pretended  
 fees for your trouble as an arbiter ; and finishing the scene of your  
 iniquity and oppression, by granting the most illegal warrants of  
 commitment, to enforce obedience to your orders, and to compel  
 payment of the fees you yourself thought proper to charge, thereby  
 in many instances acting in the double capacity of party and  
 judge ; and among the numberless instances of malversations of  
 this kind committed by you, you are charged with the following,  
 which will be proved against you, viz. Matthew Briarcliff in Bag-  
 bie, having presented a petition to you, as one of his Majesty's  
 justices of the peace, charging James M'Nish with having scanda-  
 lized him, by alledging that he had carnal dealings with another  
 man's wife, though without mentioning what man's wife it was,  
 and also with defaming him with having sold some goods and ef-  
 fects belonging to Sir Samuel Hannay, to whom he was Grieve,  
 and pocketing the money ; and praying for warrant to apprehend  
 the said James M'Nish, and any witnesses the petitioner might in-  
 cline to adduce, and bring before you to answer the said com-  
 plaint ; you, upon the twenty-first day of April 1790, not only  
 granted warrant to apprehend the said James M'Nish, but also the  
 witnesses, and to bring them before you ; thus interfering in a  
 question

question in which a justice of the peace had no jurisdiction, and most illegally and oppressively, not only making a prisoner of the private person complained of, but of an indefinite number of persons, against whom no crime or offence was imputed, and who were only to be used as witnesses, leaving it to the discretion of the petitioner to make as many persons prisoners as he pleased, and to bring them before you as witnesses, to support the complaint. That the parties, and a number of witnesses, having been brought before you in virtue of the said warrant, you, upon the 6th day of May 1790, after examining one witness, concussed and prevailed upon the said James M'Nish to submit his cause to you as an arbiter, and then you made him and the petitioner, Matthew Briarcliff, sign a minute, beseeching you to fist further procedure, and leave the final determination of the cause to your arbitration ; upon which you pronounced your award, in which, after declaring that you had God and a good conscience before your eyes, you decerned the said James M'Nish to pay David Heron's wife five shillings, and to pay five shillings to the kirk treasurer of Anwoth ; and though this award was void and null, as being pronounced without proper authority, and as wanting the solemnities required by law, to give effect to awards, you, *unico contextu*, interposed your authority as a justice of peace, not only to give legal effect to your award, but to commit the said James M'Nish into the hands of the constable, to remain prisoner till he paid, or found caution to pay the said sums within ten days ; that notwithstanding, by this procedure and award, and sentence, you were exauctorated from taking further cognizance in the premises, even though your jurisdiction had originally been competent, and that the submision, appointing you as an arbiter, had been formal and regular ; yet you from a corrupt motive of extorting more money from the parties, immediately after pronouncing the aforesaid award and sentence, called two of the witnesses who had been so brought before you, whom you examined as a ground or foundation for further judicial procedure, and then you again concussed and improperly induced the said James M'Nish to agree to sign another minute in the same terms with the one above recited ; and you pronounced another award upon the same day, with the same introduction that you pronounced your first award, by which you decerned the defender to pay the pursuers one pound six shillings Sterling, and you committed the defender prisoner into the hands of the constable till he paid the same, or found caution to pay it in ten days there

thereafter. That of the fines thus imposed by you, and for the warrants so granted by you, under pretence of fees that you were entitled to as a judge and an arbiter, you demanded and received fifteen shillings Sterling; at least, you unlawfully demanded and received, on account of the premises, different sums of money, amounting to fifteen shillings or thereabouts; likewise, you are accused, and it will be proven against you, that Patrick Savage in Gatehouse, having presented a petition to you as a justice of the peace, against James Walker in Gatehouse, craving that the said James Walker might be brought before you, or any other of his Majesty's justices of the peace, to answer the said complaint, you, upon the 13th day of May 1790, granted warrant to apprehend not only the said James Walker, but also his witnesses, and to bring them before you; and the parties having appeared before you on the 15th of said month, you concussed and improperly induced the said James Walker to sign a minute, beseeching you to list further procedure, and submitting the cause to your determination; upon which you pronounced a sentence, decreeing the defender, *inter alia*, to pay a sum of three pounds fourteen shillings Sterling, and you in like manner committed him prisoner into the hands of the constable, till he fulfilled your decree; and of which three pounds fourteen shillings, you unlawfully and oppressively demanded, extorted, and received from the said James Walker, by the hands of John M'Gown in Gatehouse, ten shillings and sixpence, as a part of the said fine; and you also received from the said Patrick Savage one shilling Sterling—both which sums you applied to your own private use: And you are further accused, and it will be proven against you, that John Stothart in Gatehouse, having presented a petition to you as a justice of the peace, charging Samuel Wilson in Gatehouse with taking and keeping a gun, and stating that he was about leaving the country, as mentioned in the petition, the said John Stothart himself signed and granted a warrant on the back of the petition to apprehend Wilson, and to bring him before himself, to be dealt with as the law directed; to which warrant, without taking any notice of the illegality thereof, you subjoined one of your own, granting warrant to apprehend the defender; and a counter petition being presented to you by the said Samuel Wilson, you, upon the same day, granted a warrant to apprehend the said John Stothart; and both parties being apprehended accordingly, and brought before you that day, you unlawfully concussed and induced them to sign a minute, submitting

mitting themselves to your decision, after which, and after the pretended examination of two witnesses, taken in the most irregular and absurd manner, you pronounced a sentence equally absurd, and most unlawful, corrupt, and oppressive, in the following terms:

" Girthon, 24th August 1791. I find Wilson to blame for promising to bring back the gun, but finds that there was neither moral nor legal evidence that the gun was Mr. Stothart's loan, nor Mr. McCoskrie's property, and therefore finds Mr. Stothart to blame for entering Samuel Wilson's house, and taking the gun out of Wilson's at his own hand, against Wilson's will, without a legal warrant; as no other person or persons have claimed the gun but Mr. Stothart and Mr. McCoskrie, decerns the gun to be given up to Mr. Stothart, and fines Samuel Wilson in five shillings Sterling, for the blame on his part, and Mr. Stothart in ten shillings Sterling, for his blame on his part, and each of them to pay the equal half of the expence of proceffes, and commits them into the hands of constables ay and until performance, and ordains an account to be given in immediately of expences, which accounts were given in and sustained, being eighteen shillings and four-pence Sterling. (Signed) John M'Naught, J. P."

Of which two sums of five shillings and ten shillings, so imposed by you, you received the whole, or at least a part thereof, under pretence of having right thereto for dues and trouble, and of which eighteen shillings and fourpence, so charged for expences, there were included different sums for your fees or trouble, amounting to ten shillings Sterling or thereby; that in the course of such your shameful practice and malversations, it is charged, and will be proven against you, that John Cavet, a dancing-master, then at Gatehouse, presented a petition to you against Andrew Wilson, Alexander M'Lean, shoemaker, Frank Finniston, and George Withers, who then resided at Gatehouse, charging them with entering his public school, and being guilty of a breach of peace, as therein mentioned: in consequence whereof, you, upon the second day of February last, granted a warrant not only to apprehend the persons accused, but such witnesses as might be deemed necessary, and to bring them before you; and for the granting of which warrant, you unlawfully exacted, extorted, and received two shillings and sixpence Sterling; and upon the 4th of the said month of February, the said Frank Finniston, Alexander M'Lean, and George Withers, were brought before you, as appears from the procedure signed by you; but Andrew Wilson you declare could not be found, and you then

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told.

told the said Frank Finniston, Alexander M'Lean, and George Withers, or one or other of them, that if they submitted themselves to you, and gave you a little money, you would easily agree the matter with them, for you liked money well; but if they refused to submit themselves to your determination, the said Frank Finniston would be whipt, and sent to Botany Bay, and the said Andrew Wilson would be hanged; and the said Frank Finniston being terrified by your threats and declarations, did accordingly agree to leave the determination of the question, so far as he was concerned, to your determination; upon which the following extraordinary minute and warrant was made out, and signed by you—“ Girthon, 4th February 1792, compeared Frank Finniston, “ Alexander M'Lean, and George Withers; but Alexander Wil-“ son could not be found, therefore continues the warrant against “ him, and recommends to all sheriffs, mayors, and justices of his “ Majesty's peace within the kingdom of Scotland, England, the “ Isle of Man, and Ireland, to apprehend him, and to transmit “ him under sure custody at the public expence, to be delivered “ within the bounds of the county of Kirkcudbright, as he is cri-“ minally convicted, in as far as one can be convicted in ab-“ sence, that he may be dealt with as accords of law, and assizies “ Alexander M'Lean and George Withers, with a suitable admo-“ nition; and with regard to Frank Finniston, he submits him-“ self, as also the pursuer, to the arbitration of the judge. (Sign-“ ed) John Cavet, Francis Finniston, John M'Naught, J. P.” Af-“ ter which, and that you had thus unlawfully and unwarrant-“ ably concussed the said Frank Finniston to submit the deter-“ mination of his case to you, you pronounced a sentence and war-“ rant, which, for oppression and illegality, it is believed is une-“ qualled in judicial procedure, and that you are the single person who ever presumed to act as a magistrate of any kind whatever, that ever pronounced so shameful and illegal a sentence and war-“ rant, and which is conceived in the following words, and signed by you, viz. “ Girthon, 4th Feb. 1792. Having considered the pro-“ cess, and keeping God and a good conscience always before my eyes, “ decerns and ordains Francis Finniston to pay to the pursuer one “ pound Sterling, and decerns Andrew Wilson to pay to the said “ pursuer two pounds Sterling, as also ten shillings and sixpence Ster-“ ling to the treasurer of the kirk-session of the parish of Girthon, for “ the behoof of the poor of said parish; and whereas Alexander “ M'Lean shoemaker in the Gatehouse, judicially appeared as agent “ and

" and proxy for Andrew Wilson; and as James Brown, senior, also appeared judicially as agent and proxy for Francis Finniston, commits them, conjunctly and severally, into the hands of constables, until payment of the above different sums. (Signed) " John McNaught, J. P." That in addition to the illegality of this sentence, by which you not only grant warrant to carry into execution, an unjust and a void award against Frank Finniston, who had appeared before you, but you fine and amercite Andrew Wilson, who had not been cited in the cause, who had not appeared before you, and who could not be made a party to that procedure; and by way of enforcing the payment of these fines, you grant a warrant not only to commit Francis Finniston and Andrew Wilson, but also to commit James Brown, against whom no complaint was made, neither was any crime or offence of any kind imputed to him: And likewise Alexander McLean, who you had already found innocent of the charge; yet both these persons you wantonly issue warrant against, and appoint them, as well as Finniston and Wilson, to be committed prisoners, jointly and severally, and to be detained by your constables accordingly, until they should pay the sums contained in your award, which in itself was void and null, and the execution of which enforced by your illegal and oppressive warrant; and as the strongest aggravation that you could add to such a scene of iniquity, oppression, and violation of all law and justice, you demanded and claimed the one-half of the two fines of twenty shillings, and forty shillings for your own fees and trouble, and directed the security and money to be taken for your behoof accordingly, or at least for a certain proportion thereof: and the said Francis Finniston and the said James Brown were accordingly, in virtue of the said warrant, carried prisoners by William Muir, your constable, from the Manse of Girthon to the house of the said William Wallace in Gatehouse, where they were kept in custody, and could not obtain their liberty, till the said Francis Finniston granted his note or bill, at two months after date, for the said twenty shillings, for which he was fined, and which was put into the hands of the said William Muir and William Wallace, or one or other of them, for behoof and for the purposes above-mentioned; and further, you are accused, and it will be proven against you, that James Brown in Gatehouse having presented a petition to you for behoof of his son Henry, a minor, charging Andrew Wark, joiner in Gatehouse, with having maltreated and abused his son, and concluding, that the said Andrew Wark should be

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apprehended and committed to the tolbooth of Kirkcudbright, until liberated in due course of law, or until he should pay such fines as should be imposed upon him; you put the following deliverance upon the said petition : " Girthon, 9th March 1792, grants " warrant to apprehend the defender, and what witnesses may be " necessary, and to apprehend M'Lean, who was agent for Frank " Finniston, and Andrew Wilson, and M'Dowall in the brewerie, " and break open lockfast and shut places, if refused admittance. " (Signed) *John M'Naught, J. P.*" Thereby again not only repeating your unlawful practice of making prisoners of the parties accused, but also of the innocent witnesses, against whom no complaint was made ; and as if the liberty of the lieges was to be sported with, and be trampled upon for your amusement, you grant warrant to apprehend Messrs. M'Lean, Andrew Wilson, and M'Dowall of the brewerie, three persons against whom no crime was charged, nor against whom was any complaint made, and who were neither directly nor indirectly concerned in the subject of the petition, on which your said deliverance was given.

That the next day, to wit, upon the tenth of March, the said Andrew Wark being brought prisoner before you, and where also appeared the said James and Henry Browns, the said Henry Brown produced a certificate, granted by John Carnochan, surgeon in Gatehouse, to whom he had applied for the same, which bore, that the pretended injury which the boy had received, was, in its consequences, not worth taking notice of, at least a certificate from the said John Carnochan of that import, or to that effect, was produced before you ; and when you, laying aside all regard to decency, the interest of religion, and your character as a minister of the gospel, adjected, or caused to be adjected, a notandum to the said certificate, in the following words, or in words to the following import or meaning :— " The clergy live by the sins of the people, the doctors by the diseases of the people, and the lawyers by the contention of the people, but the deil a ae ane of them are meikle worth." And to this indecent assertion and general censure you put your name as a justice of peace ; and further, when the said Andrew Wark was so brought before you, you concussed him to agree with the said James and Henry Browns to leave the determination of the questions between them to yourself, by threats and indecent assertions, telling him, that though the people in Kirkcudbright had lately disputed your authority.

uthority, by refusing to admit the prisoners you had sent into their jail, yet you were determined to go on in your procedure as a justice of peace, and that you would send whoever disputed your authority straight to Edinburgh under a strong guard, to be lodged in a jail or prison there; and you told the said Andrew Wark to take his choice, either to submit himself to your decision, or to be sent immediately off to Edinburgh jail; and you added, that of all the litigants you ever had before you, none refused to submit to your decision except one, and that one was afterwards hanged at Carlisle, at least you expressed yourself to the above import; and the said Andrew Wark, being thereby terrified, was concussed, and along with the said James and Henry Browns, did sign a minute or writing, submitting the cause to your determination and decreet-arbitral; upon which, on the said 10th of March last, you by a writing declared, that having God and a good conscience before your eyes, you decerned and ordained the defender to pay to William Muir, constable, two pounds Sterling, in name of all damages and expences incurred in the process; and though your award and decerniture was null and void, as having none of the solemnities required by law, yet, agreeable to your usual custom and practice, you committed the defender to the hands of a constable, to be detained till he shoule pay the money, or give security to pay the same—the one-half in one month, and the other half in two months time; and the said Andrew Wark, to avoid the disgrace and distress of his being detained prisoner under your said warrant, granted his obligation to pay the said two pounds to the said William Muir accordingly; and your conduct in this case likewise was the more corrupt, oppressive, and illegal, in as much as you included, in the said forty shillings or two pounds, which you decerned to be paid to William Muir, ten shillings, or some such sum, which you demanded for your own fees and trouble; and directed the said William Muir to hold the security, and to receive that part of the money for your behoof accordingly; and further, it is charged, and will be proven against you, that John Walker in Gatehouse having presented a petition to you against James McNish, for the purpose of recovering a balance of fourteen shillings of wages, alledged to be due to him, you, upon the twenty-third day of February last, granted warrant to apprehend the defender, and he being brought before you upon the twenty-seventh of March last, you, agreeable to your common practice, and in order to afford you an opportunity of extorting money from the parties, though you had

before received what you charged for your trouble in granting a warrant, prevailed upon the parties to submit their cause to your decision; and they having signed a minute to that purpose, you thought proper to pronounce your decree-arbitral, in the following terms:—" *Eodem die*, having heard parties at full length, and " considered the process, and keeping God and a good conscience " always before my eyes, decerns and ordains the defendant to pay " to the pursuer fifteen shillings Sterling, in name of principal, in- " terest, damages, and expences, and that against the twelfth cur- " rent, under the pain of being taken into the hands of constables, " and there being detained on his own expences till payment, or " finding caution to pay the same, with additional expences in ten " days thereafter, and the party to pay one shilling each as fees " to the arbitrator. (Signed) *John M'Naught, J. P.*" By which sentence or decree, you, as a magistrate, have decerned for fees to be paid to yourself as an arbiter, or pretended arbiter, and appointed the same to be paid to William Muir, who, it would appear, you consider as your treasurer; a decerniture which was indecent and disgraceful to yourself, and corrupt and illegal; and you also demanded and received from the said John Walker, for your fees as a justice of the peace, in the premisses, one shilling; thus assuming the double capacity of a justice of the peace and arbitrator, to multiply pretences for extorting money from, and oppressing the lieges; for conducting a procedure, which in itself was void, not only for want of the solemnities which the law requires, but on account of its corruption and iniquity. And it is further charged against you, and will be proven, that a petition being presented to you in the name of Mrs. John Tait, spouse to John Tait, joiner at Gatehouse, against Mrs. George Anderson, spouse to George Anderson, and Mrs. Hugh Henderson, spouse to Hugh Henderson, both in Gatehouse, charging them with having calumniated the petitioner, by reporting that she had stolen a table-cloth from the said Mrs. Anderson, and therefore praying decree from the justices, in manner mentioned in the petition, although you as a justice of peace had no jurisdiction whatever to take cognizance of a question of that nature, and that the petition was in every respect irregular, absurd, and irrelevant; yet you, in consideration of two shillings, unlawfully charged, bargained for, and received from the said John Tait and his wife, granted a warrant or deliverance upon the said petition, equally unlawful and oppressive, conceived in the following words, or in words of the following

ing import:—" Girthon, 14th February 1792. Grants warrant to apprehend the defenders, and what witnesses are necessary, and to break open lock-fast and shut places, upon being refused admittance. (Signed) John M'Naught, J. P." That the wives of the said George Anderson and Hugh Henderson being apprehended, in virtue of the warrant so granted by you, they were brought prisoners from the Gatehouse to manse of Girthon, and their said husbands came along with them, as did also the petitioner and her husband, and being all convened before you, though you had no jurisdiction in the question, as has been mentioned; yet you, in defiance of the law, declared your resolution to proceed and judge in the cause; but in order to afford you another pretence to extort money from the lieges, in the double capacity of magistrate and arbiter, you prevailed upon the petitioner and his wife, and the two defenders, Mrs. Anderson and Mrs. Henderson, and Hugh Henderson, the husband of Mrs. Henderson, to sign a minute, agreeing to submit the decision of the cause to the decreet-arbitral of you the judge; which being done, and Janet Woods in Gatehouse, one of the witnesses, being called, Mrs. Henderson objected to the witness as bearing malice against her, and protested that you should not examine her, and thereupon she laid down sixpence upon the table, by way of instrument money, which you immediately laid your paw upon, and put into your pocket, saying that you would talk of these matters afterwards, but that you would examine the witness in the mean time, and then, in your double capacity of arbiter and justice of the peace, you pronounced your sentence in the following words, or in words to the following import:—" Girthon, 14th February 1792. Having considered the process, and keeping God and a good conscience always before my eyes, I decern and ordain Mrs. George Anderson to pay to William Muir thirteen shillings Sterling; and also I decern Mrs. Hugh Henderson to pay to the said William Muir ten shillings Sterling, to be ap lied by him towards the expences of this process, &c. as per account; and commits the defenders, conjunctly and severally, into the hands of constables, until payment of the said account, which is herewith produced, signed by the judge. (Signed) John M'Naught, J. P." The account referred to in this most corrupt and illegal decerniture is attested by you, and of which the tenor follows:

" Ex-

" Expences of the petition, &c.	L	5	6
" Fees for warrant on do.		0	2
" Constables fees,		0	5
" Arbitration trouble,		0	8
" Servant of the house,		0	1
" Expences to the pursuer,		0	1
		—	6
" (Signed) John M'Naught, J. P."	L.	1	3

That by this most iniquitous and illegal procedure, you again appoint the said William Muir your treasurer, in as much as you make the sums decerned for payable to him, and you give judgment and decree in your own favour; in as much as, in the sums decerned for, is included two shillings, as your fees as a justice of peace, for granting a warrant upon the said petition, and eight shillings for your fees and the trouble you had as a pretended arbitrator; and in this account you introduce a new article, as a pretence to extort money from the lieges, viz. a charge of a shilling for the use of your house, and which shilling was to be recovered for your own behoof, although in the said account, it would appear, you charged it as a fee to the servant of the house; and having pronounced this sentence, which, in so far as you acted as an arbiter, was void and null, as being destitute of those solemnities which the law requires in such procedure; and which, in so far as you acted as a justice of peace, was also void and null, in as much as it was a decree in favours of William Muir, for your behoof, to a certain extent; and in as much as a justice of peace, you had no power or jurisdiction, either to judge in such a cause, or to give execution upon a decree arbitral; yet in aggravation, and in addition to the gross malversation you had so committed, you ordered the said William Muir not only to apprehend the wives of the said George Anderson and Hugh Henderson, but also the said George Anderson and Hugh Henderson themselves, and to detain them in custody, until payment of the sums contained in the shameful decree, which you had so pronounced; but the said William Muir, upon the prisoners their promising to raise the money as soon as they could, having agreed to allow these poor people a few days for that purpose, they were permitted to return home; but in the week following, he the said William Muir called upon them at different times, with the warrant in his pocket, and threatened to execute it, unless the money was paid; and on one of these occasions, the

the wife of the said George Anderson having mentioned her very great poverty to him, which rendered it impossible for her to raise the thirteen shillings at once, and her hopes that his honour (meaning you) would be prevailed on to receive the thirteen shillings, decreed for against her, in small sums, as she could gather it up by her industry, the said William Muir told her he was sorry for her situation, and that if she would go along with him to you, and inform you of her poverty, he hoped you might be induced to give down your part of the fine, and he would also give up his part of it. That they having accordingly repaired to you, at the manse of Girthon, about eight days after you had granted your said warrant, and she having stated to you the poverty of her and her family, and the miserable circumstances in which they were ; and the said William Muir having joined in her entreaty, that you would so far commiserate her situation as to give up your part of the fine, it would appear, that, from the specimens which you are in the daily practice of giving, of your injustice and extortion, when acting as a magistrate, and a man, you did not conceive any person would be so weak and foolish as to expect any success in an appeal to your humanity and compassion ; and accordingly, to evince that such were your sentiments, and that the only access to you was by corruption and money, in answer to the entreaties of Mrs. Anderson, you expressed yourself in the following words : " Poh ! " poh ! you don't come here to joke ; *money makes the mare go*— " Take your finger out of your mouth, for you knew better than " to come here with your finger in your mouth—What money " have you in your pocket ? " Upon which the poor woman, finding all entreaty in vain, took eighteen pence out of her pocket, being all that she and her husband had been able to scrape together— and this miserable pittance you took and put into your pocket as a part of the sums you had awarded to be paid to yourself ; on which the poor woman was allowed to depart ; but you directed the officer to execute the warrant against the said Mr. and Mrs. Anderson, and Mr. and Mrs. Henderson, and to enforce payment of the sums contained in your warrant, and censured him for negligence in not executing the warrant, and recovering the fines before then. That you having been informed, that your authority to grant the warrant above-mentioned was doubted, and that the said Hugh Henderson meant to apply for redress, you, in order to prevent his obtaining relief, or any legal redress, and the more effectually to extort, and to ensure the recovery of the ten shillings you

'had decerned him to pay, you gave orders to the said William Muir to take with him one of the dragoons of a party which were then quartered at the Gatehouse, and, if needful, to take the whole party, and by military force to execute your said warrant: And accordingly, the said William Muir as a constable, though the creditor in your warrant went in your name to one of the said dragoons, called Robert Shaw, and engaged him to assist in the execution of your said warrant against the said Hugh Henderson, in order to enforce the payment of the ten shillings you had so ordered him to pay. And in the morning of the 7th day of March last, or of one or other of the days of that month, or in one or other of the three last days of February preceding, the said Robert Shaw, armed with a large horse pistol, attended the said William Muir, your trustee and constable, and they entered the dwelling-house of the said Hugh Henderson, and, in virtue of your said warrant, apprehended and made him a prisoner, and immediately conveyed their trembling victim prisoner to the house of the said William Wallace, the whisky-seller in Gatehouse, and where he was detained prisoner accordingly for several hours, and, agreeable to the practice of spunging houses, to treat the constable, dragoon, and keeper of the house, with different drams of whisky; after which the said William Muir, Robert Shaw, and William Wallace, carried the said Hugh Henderson prisoner from the Gatehouse before you at the manse of Girthon, when you enquired at him if he had money upon him to pay the ten shillings?—To which he answered in the negative; upon which you ordered the said William Muir, and the said Robert Shaw, to carry him back prisoner to the house of the said William Wallace, and to detain him till the ten shillings was paid; and the said Hugh Henderson having asked at you, why you had pocketed the sixpence, with which his wife took a protest against the examination of Janet Woods, and had taken no notice of the protest? you answered, that your practice was to disregard all protests, but to pocket the instrument-money, as a part of your dues; and if he would repeat the protest, and lay down sixpence too, he would pay no regard to his protest, but would pocket the money; upon which the said Hugh Henderson required you to send him to the jail of Kirkcudbright, and not to the whisky-house, since he was to be continued a prisoner. But you answered, that you would do in that as you thought proper, and that you would not alter your warrant at his request, but continue him prisoner under the charge of the said William Muir and Robert Shaw; and accordingly he was again

again carried prisoner by the said William Muir, and the said Robert Shaw the dragoon, to the house of the said William Wallace, and there detained till near mid-night of the said day, when, upon his procuring security to surrender himself the next morning, or to pay the money to the said William Muir, he was allowed to return to sleep in his own house ;—but the next morning, about eight o'clock, the said Hugh Henderson was again taken into the custody of the said William Muir, in virtue of the said warrant, and detained prisoner till the afternoon of that day. But in the mean time, your outrageous, oppressive, illegal, and infamous procedure, was canvassed, and complained on in different parts of the country, and the information thereof was given to the procurator fiscal of the steward court of Kirkcudbright, who immediately presented a petition to the steward depute of Kirkcudbright and his substitute, complaining of your illegal practices, and of your detaining persons prisoners in the hands of your constable in private houses, in place of committing them to the county jail ; and particularly stating, that the said Hugh Henderson was so committed and detained prisoner, and that you would not permit him to be brought to the county jail, and praying for their interposition to afford relief. The steward substitute, upon the 8th of March last, granted a warrant to bring you, and the said constable and prisoner, before him or the steward depute, to be examined, that such relief might be given as was agreeable to law, whereby the said Hugh Henderson regained his liberty in the afternoon of that day ; and all which warrants, so granted by you, and procedure had before you as a justice of the peace or arbiter above complained on, charged against you, were granted, and the procedure had before you at the manse of Girthon or at the Gatehouse of Fleet. That the next day, you having appeared before the said steward-depute, you emitted a declaration, which, or an authentic extract thereof, will, in due time, be lodged with the clerk of the presbytery, where you may have access to the same, in which you gave an evasive and false account of your conduct, and are again guilty of judicially and deliberately lying ; but in which you admit, that you very frequently act in the two capacities of arbiter and justice of peace, pronouncing a decision for a fine as an arbiter, and as a justice of peace enforcing the execution thereof, by granting a warrant of commitment till payment of, or caution being found for the fine : And in which you declare, though falsely, that of the ten shillings you fined the said Hugh Henderson,

eighteenpence was for the behoof of the said John Tait, and the remainder to the clerk and constable. But you deny that you claimed any part of the fine to yourself, or that you received any gratuity or fee for your trouble in the matter, although you well knew, that in the very account attested by yourself, that you charged and claimed for yourself two shillings as a justice of peace, eight shillings as an arbiter, and one shilling for your house in the name of a servant; thereby disgracing yourself as a magistrate and minister of the gospel; and to the crimes of extortion, corruption, injustice, and open violation of the law, deliberately adding and being guilty of the crimes of evasion and falsehood, judicially thereby proving yourself a bad and disgraceful member of society, a wicked and unworthy minister of the gospel, and totally regardless of the laws of both God and man: and your conduct is equally censurable and wicked, and your crimes aggravated by your practices and endeavours to promote, encourage, and sanction private, clandestine, and irregular marriages, and corruptly receiving money on that account. In which, to the disgrace of your character as a minister of the gospel, and in defiance of your duty as a minister and as a civil magistrate, you are notorious for celebrating, sanctioning, and promoting such marriages: And it is charged, and will be proved against you, as your general practice, that you encourage parties, who, by such marriages, offend against the laws of the church and the laws of the land, to apply particularly to you, because they will have the advantage of having their irregularities sanctioned, and their marriages made good and effectual, by a person who is both a minister of the gospel and a justice of the peace; and accordingly, in the certificates which you grant, when you celebrate or sanction such marriages, you most indecently, and, to bring more custom to your shop, design yourself sometimes, The Honourable and Reverend John M'Naught of Claugreed, one of his Majesty's justices of the peace; and at other times, The Honourable and Reverend John M'Naught, Esquire, of Claugreed, one of his Majesty's justices of the peace: And your conduct has been still further aggravated and rendered more criminal in you, and disgraceful to the character of a minister of the gospel, in as much as, and it is charged, and will be proved against you, that upon different occasions, when persons came before you in order to be privately and clandestinely married, that after they had admitted no marriage of any kind had taken place, or been celebrated betwixt them before, they, by your advice, were.

were prevailed on to admit, though falsely, that a private marriage had previously taken place : After which, you, assuming the two designations of *Honourable and Reverend*, certified, under your hand, in various instances, that the parties solemnly declared that they had been previously privately married, and therefore you ratified and confirmed the marriage between the parties, and gave it all legal consequences. And by way of still farther imposing upon these deluded people, you pretended, that, conform to act of parliament, and the discipline of this church, you kept a register of such marriages, in which theirs were to be recorded, whereby it was rendered a complete, good, and legal marriage ; and for thus acting, celebrating, and sanctioning marriages, made in defiance of all good order of the discipline of the church and the laws of the land, you received money and other things as the wages of sin, and the hire of iniquity ; and your conduct was so corrupt and disgraceful on these occasions, that you received sometimes more and sometimes less, for your own emolument, according to the ability and circumstances of the parties to comply with your demands. That it is established by the foresaid judicial declaration emitted by you on the 4th day of May 1786, and will be further established against you by the evidence to be adduced in support of this indictment, that amongst other instances of malversations committed by you as a magistrate, that as a justice of peace, within the said space mentioned in your declaration, you had received the sums of money in the particular cases, and from the respective parties, for your trouble, and as pretended fees and perquisites for celebrating, performing, and sanctioning clandestine marriages, previous to that date, as therein and after mentioned, viz. From George Kean in , in consequence of his irregular marriage with Jean Bell in Dalmalin, one guinea ; from John Wilson in , a sum of money, for his irregular marriage with Katherine Burnie ; from James Walker in Gatehouse, half-a-guinea, for his irregular marriage with Janet M'Ghie ; from David Fisher in Roughpoint, on account of his irregular marriage with Jean Brydson in Woodend, seven shillings and sixpence, at least, you declared, that you only took that sum from this couple as the parties pretended they were very poor ; from John M'William in Gatehouse, half-a-guinea, for his irregular marriage with Mary Davitts his wife : yet so far from discontinuing this shameful and corrupt practice, after your conduct had been so censured by the justices of peace and his Majesty's Advocate, you continued

tinued, and to this day do continue, your malversations and mal-practices, to the great injury of the interest of religion, and in defiance and open violation of the discipline of the church, thereby depriving the poor of what by law they are entitled to, and screening offenders from that punishment which the law has directed to be inflicted upon their offences, for your own private emolument, of which many instances will be proved against you; and amongst which, the following instances and facts will be so established, viz. That at the manse of Girthon, or in the parish of Girthon, upon the 29th day of November 1786, you confirmed an irregular marriage between James Pauling in Causwayend, and Elizabeth Sturgeon also in Causwayend. That upon the 12th day of February 1787, or near that time, at the said manse, or in the said parish, you did the same between Francis Bell in Kirkcudbright, and Maxwell Halliday in ; and upon the 19th day of the said month and year, at the said manse, or in the said parish, you did the same between John Campbell at Cuil, and Jean Thomson there; and on the 20th day of March in that year, at the said manse, or in the said parish, you likewise confirmed a private marriage between Henry Dunsmore in , and Susanna Hutchinson in ; and on the 26th of the said month, at the said manse, or in the said parish, you confirmed such marriage between John Dalyell writer in Wigton, and Margaret Kelly there; and on or about the 28th day of April in the said year, at the said manse, or in the said parish, you did the same between James McCulloch in Boreland of Minnigaff, and Margaret M'Adam in Townhead of Sorbie; and on the 17th day of May in the same year, at the said manse, or in the said parish, you did the same between John Sharp in Maryport, and Margaret M'Kie in Kirkcudbright; upon the 21st day of June in the said year, at the said manse, or in the said parish, you did the same between Samuel Evans in Gatehouse, and Anne Hannay there; upon the 14th of July, and year aforesaid, at the said manse, or within the said parish, you likewise confirmed such marriage between David Andrews in , and Mary Conning in ; and in the several instances above-mentioned you granted certificates of your having so ratified and confirmed the said marriages, of the respective dates, or about the times above specified; and for each of which certificates, and for your trouble as a justice of peace, you received a sum of money not less than five shillings, in any one instance, and in other instances, a sum from five shillings to one

one guinea. That your conduct was equally injurious to the laws and discipline of this church, and to your own character as a minister, and to your conduct as a judge; in as much as you, on the 20th day of November 1790, or about that time, having been applied to as a justice of peace by Margaret Law in Rusco, who complained against John Wilson, an Irishman, who she charged with being the father of a bastard child, with which she was then pregnant, you granted a warrant to apprehend and bring the said John Wilson before you, and for which you unlawfully took from the poor woman one shilling as your dues, to which you pretended you had right; and the said John Wilson being that day, or soon thereafter, brought before you at manse of Girthon, and the said Margaret Law having also attended, they declared they were not married persons, but he admitted that he was father of the child with which she was pregnant; and which was begot in fornication: That you then told the said John Wilson that he ought to marry the said Margaret Law, and that you would marry them, or give them a marriage that should have every legal consequence for ten shillings; and if he did not agree to this, you would directly send him to jail. That the said John Wilson, rather chusing to be married than to be sent to prison, agreed to allow you to perform the marriage ceremony; and you accordingly dictated to David M'Guffog in Gatehouse, your clerk upon that occasion, a certificate, which was signed, importing and stating, that the parties had appeared before you, The Honourable and Reverend John M'Naught, Esquire, of Claughreed, one of his Majesty's justices of peace, and solemnly declared they were privately married the 1st of March preceding; and which marriage you pretended to ratify and confirm, and to give it all legal consequences in your usual stile and form of celebrating such marriages; and for the falsehood which you thus judicially certified under your hand, and for the irregular marriage you so made, you at the time received, in terms of your corrupt bargain, a draught from the said John Wilson upon George Galloway for ten shillings, (which draught you delivered to the said David M'Guffog, to receive the contents for your behoof;) and the said John Wilson having got the money from the said George Galloway, he, in a few weeks afterwards, paid it to the said David M'Guffog, and retired the draught accordingly. But though the man paid the sum contained in the said draught (the corrupt wages of your prostituted conduct in office,) he considered the pretended marriage, and your certificate, containing in its bottom

som what you knew to be false, a mere mockery ; and accordingly he deserted the wife you had so buckled him to, and returned to Ireland in a short time thereafter, leaving the woman to provide herself with another husband, when she shall be disposed to form such connection. And further, at the manse of Girthon, or in the said parish, you celebrated and pretended to ratify an irregular marriage between William Hay and Jean Tait, both in Kirkcudbright ; and in the certificate which you, as a justice of peace, granted of this marriage, which bears date the 1st day of April 1791, you make the parties solemnly to declare that they had been privately married two months before the date thereof ; and from the date of which supposed private marriage, you are pleased to give it all legal consequences ; yet, in fact, the wife of the said William Hay, who was your near neighbour, was only dead about ten days before the date of your said certificate ; and the husband of the said Jean Tait (for she had formerly been married) is said and believed to be alive at this day ; and for this interposition of your authority, and prostitution of the office as a justice of peace, you also received ten shillings, or at least a sum of money. That in the month of February 1791, or of January preceding, or of March following, James Crawfurd and Sarah Dun, both in the parish of Penningham, two unmarried persons, having gone before you at the manse of Girthon, or in the neighbourhood thereof, in order to procure themselves privately married, upon your asking and enquiring whether or not they had been privately married already ? they informed you that no ceremony of that sort had taken place, and that they were unmarried persons ; but having heard that you, as a justice of peace, married people privately, who chose to be married in that way, they had come to you—on which you told them that you could marry them privately, but that it was necessary to sanction your part of the ceremony, that they should admit that they had been married sometime before : Accordingly, by your advice, they admitted, though it was known to both you and them, falsely, that they had been privately married ; and for your trouble in marrying them, and certifying their marriage, they agreed to pay you five shillings, which you required and received from them accordingly ; and then you, as a justice of peace, granted a certificate of marriage in the following words, or to the following effect :—“ Girthon, 16th  
 “ February 1791, compeared before the Honourable and Reverend  
 “ John M'Naught of Claugreed, one of his Majesty's justices of  
 “ the peace, James Crawfurd and Sarah Dun, who solemnly declared  
 “ that

( 41 )

gracious has given you (the 1<sup>st</sup> ed of wch) now saw and  
be witness has, of my behalf of that you shw qd by reason of &  
"that they were privately married three months ago. The said  
"justice, at their earnest desire and request, ratifies and confirms  
"said marriage, and gives it all legal consequences from the date  
"thereof, and ordains the same to be recorded, conform to act of  
"parliament, and the discipline of the church of Scotland. In testi-  
"mony whereof, these presents are signed by the parties and said  
"justice." And which certificate is signed by you, and the said parties,  
accordingly. Thus, in the instance last-mentioned, did you persuade  
and induce the said James Crawfurd and Sarah Dun to admit a false-  
hood, which you, in your judicial procedure, make them solemnly de-  
clare to be true, bidding defiance to the laws of both God and man,  
disgracing your own character as a minister of the gospel, by an  
open violation of truth and decency, and prostituting your power, as  
a justice of peace, in the most wicked manner, by attempting to sanction  
a clandestine and illegal marriage of your own performing. That in  
the month of January 1791, or in one or other of the months of  
that year, at the said manse, or in the said parish, you granted  
a similar certificate and ratification of an irregular marriage  
between Robert Paterson and Elizabeth Gifford, both in New-  
tonstewart, for which you demanded and received ten shillings  
and sixpence, and a bottle of liquor; and in the same period, at the  
said manse, or in the said parish, you sanctioned another irregular  
marriage, and, as a justice of peace, confirmed the same, between Wil-  
liam Moffat, also in Newtonstewart, and Katherine Broadfoot in Pen-  
ningham, for which you also received half-a-guinea. That all these  
several certificates or confirmations of marriages, or clandestine or ir-  
regular marriages, with the petitions, proceedings, warrants, and  
sentences thereon, and all other papers and writings before narrated  
and referred to, so far as the same are or may be recovered, or au-  
thentic extracts or copies thereof, will be used in evidence against  
you, and are now or will in due time be lodged with the clerk of  
presbytery, that you may have an opportunity of seeing the same.  
That in the several instances of clandestine and irregular marriages,  
that came before you as a magistrate, it was your duty to have fined  
the parties, and to have directed a part of the fine to have been paid  
for the benefit of the poor, as the law directs; and as a minister of  
the gospel, it was your duty to have deleted such offenders to the  
kirk-session of their respective parishes, that they might have received  
a proper rebuke for the violation of the laws and discipline of the  
church, and a suitable admonition. But these great objects, which  
the interest of religion and the good of society required, you disre-

garded, and wickedly and corruptly received money for your own emolument, for the part you acted, attending to no other consideration. That not content with thus acting in defiance of the laws of the church, and the laws of the land, made to prevent clandestine and irregular marriages, you have endeavoured still further to wound and injure the interest of religion, by perverting, or endeavouring to pervert, the meaning of the holy scriptures, and impiously endeavouring to make them justify and support your malversations; in as much as, you have at different times, at the manse of Girthon, and in other parts of the parish of Girthon, declared and argued, that your conduct in making and sanctioning irregular marriages, is authorised by the scriptures, and the law of God; and, to prove this, you have said and averred, that the translation of the scriptures used by this church is erroneous, in the thirty-sixth verse of the seventh chapter of St. Paul's epistle to the Corinthians, which says, " But if any man think " that he behaveth himself unseemly towards his virgin, if she pass " the flower of her age, and need so require, let him do what he " will, he sinneth not; let them marry." -- For that the original in the Greek signifies, when a woman is in, at, or upon the flower of her age, which you indecently explain, signified in Latin *Puella pilosa*, and in plain English signified her being *sprung in the tail*; and with such a one you argued, whatever a man does he cannot err. That is, say you, (alluding to his committing fornication with the woman) let him exert himself, he cannot do too much--- and the meaning of the words " Let them marry," you explain to be, that if a *corpus delicti* was likely to appear, let the parties go to a justice of peace, declare a private marriage, and which the justice should ratify and confirm, by which the directions of the Apostle would be complied with, and which you averred was the Apostle's precise meaning in that part of his epistle; and you impiously added that the Apostle could mean nothing else, for he was too good a judge of human nature, to think it would be any compliment to any man to have any thing to do with a woman (alluding to his having carnal knowledge of her) after she was past the flower of her age: At least you expressed yourself in the above words, or in words of the above import and meaning, at the manse of Girthon, and in different parts of the parish of Girthon, to sundry different persons at sundry different times, within these twelve months; and particularly, you so expressed yourself at the manse of Girthon, upon a Sunday in the month of October last, and at different times both before and since, to the Reverend Mr.

William

William Thorburn, preacher of the gospel, and assistant to you in the said parish of Girthon; and you also so expressed yourself unto the Rev. Mr. Hugh Gordon, minister of the gospel at Anwoth, upon Sunday the 24th day of April 1791, or upon a Sunday in the said month of April or March preceding, or May following, after he had been preaching and doing duty in the church of Girthon; and, upon this occasion, to prove that your practice as a justice of peace, in confirming and ratifying irregular marriages, was right, you averred, that antenuptial fornication was the same as betrothment—That the patriarchs of old were betrothed, and their betrothment was afterwards ratified and confirmed; and still farther, to shew your contempt of all order and decency, and disregarding your character as a minister of the gospel, and forgetting that regard which is due to the holy Sabbath, you concluded your argument in support of your scandalous doctrine and conduct, by singing a very improper and a very profane song or ballad; and thus your wicked and irreligious behaviour was highly aggravated, as tending to corrupt the principles of, and to mislead two teachers of the gospel, who are bound by their sacred characters, as you ought to have been, to support and to deliver, pure and unpolluted, the doctrine of the holy scriptures, as understood and adopted by the church of Scotland: And it would appear, that tho' it is your duty to promote sentiments of piety, virtue, and decency, in the life and conversation of the said Mr. William Thorburn, your present helper, yet your practice, not only in the instances above condescended upon, has been the reverse, but you have in other instances, at different times since he was settled as your helper, at the manse of Girthon, and in other places within the parish of Girthon, endeavoured to destroy these principles of decency, which, as a member of society, and much more as a preacher of the gospel, he ought to possess, and you ought to promote, by telling him the most abominable, nasty, and filthy stories, of instances of weakness in human nature, thereby proving your own want of decency, and your total disregard of the interest of religion, or the respect to the sacred character of those employed in the ministry of the gospel; and further, with a view of vilifying, and bringing into contempt, the Christian religion, upon the third day of May last, or upon one or other of the days or nights of the said month, or of April preceding, or of June following, within the inn, commonly called the Blairs-Arms, in Kirkcudbright, in presence of John Thomson writer in Kirkcudbright, George Craig, James

M'Courtie,

McCourtie, and Peter Anderson there, and sundry other persons, you declared that the Christian religion was founded on bribery and corruption.—That you have also been guilty of defrauding the poor of your own parish, in other instances than those above condescended on, by withholding from them what they were entitled to ; in so far as, from the time of your settlement as a minister of the parish of Girthon, in spring, 1778 till summer 1783, when the said Mr. William Paterson was settled as your helper in the said parish, you laid hold of, received and kept the whole funds collected for, and belonging to the poor of the parish of Girthon, for that space, which was upwards of five years ; and of which, as well as other fines and sums of money, belonging to the poor of said parish of Girthon, incurred, inflicted, and raised, during and since that period, and received by you as minister of the said parish, you keep possession of to this day ; neither have you ever rendered any account thereof to your own session, though often required so to do. And your conduct in this particular is aggravated, in as much as the poor in the said parish have often, during the said period, been in great want and distress, while you have withheld, and applied to your own use, the funds from which they ought to have received relief. That your conduct has been so disgraceful, both as a minister of the gospel and as a civil magistrate, and your behaviour so indecent and improper, that you have frequently been turned out of the company of the gentlemen of the stewartry, who, on different public occasions at Kirkcudbright, and other places, have excluded you from being with them, assigning, as their cause of refusing to associate with you, that your conduct was too bad and disgraceful to entitle you to be in the company of gentlemen, and therefore they would not permit you to come amongst them ; and such resolution have again and again been intimated to you, by order of the justices of peace, when assembled as such, at Kirkcudbright, and who have also, at the said adjourned quarter-sessions at Gatehouse, the 4th of May 1786, as well as at different times since, and particularly at their quarter-sessions upon the 3d of August 1790, resolved to investigate the particular malversations you had been guilty of, while acting as a justice of peace, and to have a precognition taken thereanent, in order to be transmitted to the public officer ; and so unbecoming, wicked and corrupt, has been your conduct and practice, that the gentlemen of the stewartry of Kirkcudbright, upon a late application for a new nomination of the justices of the peace for the stewartry, have

have desired that your name may not be inserted therein, as they consider you as a disgrace to the commission, and totally unworthy of such an office; but so abandoned are you to all sense of decency, and propriety of conduct, that you have to different persons, and at different times, in Kirkcudbright, in the parish of Girthon, and other places, declared, that even though your name should be left out of the new commission of peace, which has been applied for, you will continue to act as a justice of peace in the same manner you now do in every respect; and though you will properly soon be brought to justice, by an indictment before the civil court, for the malversations in office you have been guilty of, and be punished as the law directs, yet the complainers, conceiving it inconsistent with what is due to themselves, and to what they owe to the interest of religion, to remain longer silent and inactive, have resolved, though they have been long unwilling to subject themselves to the trouble and expences that will attend this indictment, to bring you to trial before the presbytery of Kirkcudbright for your bad and wicked conduct and behaviour, and to have you punished according to the laws of the church, that you may no longer continue a minister of the gospel, to the disgrace of that sacred character, and to the reproach of all good order and decency. From all which facts and circumstances above charged, narrated and stated, and others that will be proved against you, the said Mr. John M'Naught, it will be made evident, and proved, that you are guilty, actor or art and part of all, or one or other of the crimes and offences above mentioned, aggravated as is above stated— All of which, or part thereof, being found proven, you the said Mr. John M'Naught ought to be *deposed* from the office of the holy ministry, or otherwise *censured* according to the demerit of your guilt, for the glory of God, edification of the church, and to the terror of others to commit the like enormous crimes and offences in time coming..

(Signed)

JAMES KIRKPATRICK.

JAMES CARNCHAN.

JA. LIVINGSTON.

JOHN THOMSON junior..

JOHN THOMSON.

GEO. GALLOWAY.

JOHN CARNCHAN.

**LIST of WITNESSES to be adduced against you,  
the before-designed Mr. JOHN M'NAUGHT, for prov-  
ing the foregoing Libel, wrote upon the one hun-  
dred and thirty-eight preceding pages.**

- DAVID M'GURFOG, constable in Gatehouse.  
 William Muir in Flilarg.  
 William Bell, tenant in High Creoch.  
 Samuel Boddan in Tanniefad.  
 5 William M'Lachlan, joiner in Gatehouse.  
 William Bryce, tailor there.  
 Elizabeth Baxter, spouse to James Thomson, merchant, Gate-  
 house.  
 James M'Kune, innkeeper there.  
 Mrs. Martha Russel, *alias* M'Kune, his spouse.  
 10 Charles Peters, chaise-driver in Gatehouse aforesaid.  
 John M'Coskrie, late post-master there.  
 Kenneth Bean, joiner there.  
 Robert Bell in Dalmalin.  
 The Reverend Mr. Hugh Gordon, minister of the gospel at  
     Anwoth.  
 20 The Reverend Mr. William Thorburn, preacher of the  
     gospel, residing at Gatehouse.  
 Mr. Alexander Robb, preacher of the gospel at Tongland.  
 Lieut. Hugh Stewart of the marines, at Corgie, in the shire of  
     Wigton.  
 John M'William, merchant in Gatehouse.  
 John Alexander, precenter in Girthon.  
 20 William Hannay, Esq; of Bargally.  
 Matthew Briarcliff, tenant in Begbie.  
 Alexander M'Lean of Mark.  
 William Haftie, tenant in Braich.  
 Robert Ramsay in Murraytown.  
 25 Michael Denniston in Gatehouse.  
 Robert Denniston, clerk in the cotton mill there.

John

- John M'Culloch, Esq; of Barholm.  
 John M'Naught, tenant in Balig.  
 John M'Geoch wright at Girthon-kirk.
- 30 James Selkirk, late servant to the said Mr. John M'Naught complained on, now residing in Gatehouse.  
 John Selkirk, innkeeper there.  
 George Craig, writer in Kirkcudbright.  
 James M'Courtie, writer there.  
 Peter Anderson, residenter in Kirkcudbright.
- 35 Anthony M'Harg, late in Glencappnoch, now in , in the estate of Cardoness.  
 John Gourlay late in Gourlay-Laggan, now in Whitefide.  
 John M'Mikin in Castramond.  
 Samuel M'Kean in Drumishangan  
 John Carson, late tenant of Culcrae.
- 40 John Pain in Gatehouse.  
 James Douglas, baker there.  
 Andrew Muir, Carter there.  
 John Henry, now in Newtonstewart.  
 John M'Adam in Whinnie hill.
- 45 William Wallace, whisky-seller, residing in Gatehouse.  
 James Bell in Gatehouse.  
 Janet M'Naught, his spouse.  
 John Brown in Kirklaugh.  
 James Brown in Gatehouse.
- 50 Henry Brown there.  
 John Carnochan, surgeon there.  
 Sarah Carson in Skyreburn.  
 John Campbell in Cuil, or late in Cuil.  
 Jean Thomson his spouse.
- 55 Henry Dunsmore.  
 Susanna Hutchison his spouse.  
 John Dalyell, writer in Wigton.  
 Margaret Kelly his spouse.  
 Samuel Evans in Gatehouse.
- 60 Ann Hannay his spouse, in Gatehouse.  
 Catharine Burnie, spouse to John Wilson, in Carlinwark town.  
 The said John Wilson there.  
 Francis Bell, hatter in Kirkcudbright.  
 Maxwell Haliday his spouse.

James

- 44
- 65 James Crawford, late or presently in Newtonstewart and  
Sarah Don his spouse.  
David Fisher, now Miner in Kirkcudbright.  
Jean Brydon, his spouse.  
William Hay in Kirkcudbright.
- 70 Jean Tait there, called the spouse of the said William Hay.  
John Kirk in Laigh Crotch.  
George Kirk, late in Auchengassel.  
George Kean, miner, late at Dalmalin.  
Jean Bell, his spouse, residing at Dalmalin.
- 75 Agnes Livingston, residing in Gatehouse.  
Margaret Law in Rusco.  
Janet M'Ghie, spouse to James Walker, bricklayer at Gate-  
house.  
The said James Walker.  
John M'Gown in Gatehouse.
- 80 James M'Nish, dyker, now there.  
James M'Culloch in Boreland of Minigaff.  
Margaret M'Adam his spouse.  
William M'Kean in Gatehouse.  
Hugh M'Moerland late there, now at Skyreburn.
- 85 John M'Dowall.  
Peter M'Geoch.  
John Thomson at Glenbridge.  
Martin M'Adam in Disdow.  
James M'Candlish in Tannimaws.
- 90 John M'Kenzie from the kingdom of Ireland.  
Alexander M'Klean, shoemaker in Gatehouse.  
Alexander M'Klean, workman at the cotton-mill at Gatehouse.  
William Moffat, saddler in Newtonstewart.  
Katharine Broadfoot his spouse.
- 95 Pearson.  
James Pauling in Causewayend.  
Elizabeth Sturgeon his spouse.  
Robert Paterson, late or presently in Newtonstewart.  
Elizabeth Gifford his spouse.
- 100 Alexander Rorison, tanner in Gatehouse.  
Rebecca Richmond, spouse of John Tait, joiner there.  
The said John Tait.  
Mary M'Clune, spouse to George Anderson there.  
Margaret Dawson, spouse to Hugh Henderson there.

- 105 William Sloan, bricklayer in Gatehouse.  
 Patrick or Peter Savage.  
 John Stothart in Gatehouse.  
 John Sharp.  
 Margaret M'Kie his spouse.
- 110 George M'Taggart in Gatehouse.  
 John Taylor from the Isle of Man.  
 Samuel Wilson.  
 Andrew Wilson.  
 Andrew Wark, joiner in Gatehouie.
- 115 John Walker in Gatehouse.  
 Walter Sloan Laurie, Esq; of Redcastl.  
 David M'Culloch, Esq; of Ardwall.  
 David Maxwell, Esq; of Cardonefs.  
 The Right Ho ourable Basil William Douglas, commonly cal-  
 led Lord Daer.
- 120 Alexander Gordon, Esq; steward-depute of Kirkcudbright.  
 James Niven, deputy steward-clerk there.  
 David M'Clellan, writer in Kirkcudbright.  
 John Commelin, writer there.  
 Adam Thomson, Esq. of Muncraig.
- 125 William Brown in Gatehouse.  
 John Smith, writer in Kirkcudbright.  
 Alexander Birtwhistle, Esq. residing at Gatehouse.  
 John Cavet, dancing-master, presently or late at Gatehouse.  
 Thomas Kelly in Rainton.

(Signed)

*James Kirkpatrick.*  
*James Carnocban.*  
*Ja. Livingston.*  
*John Thomson, jun.*  
*John Thomson.*  
*GEO. Galloway.*  
*John Carnocban.*